

The Case of the Hon. Mr. McFadden Vs. the Hon. Mr. Williams

HARRISBURG, Penn., May 24. —In the history of feuds, public and private, the one between the Hon. John Skelton Williams and the Hon. Louis T. McFadden takes a preeminent place.

Mr. Williams happens to be Controller of the Currency of the United States. Mr. McFadden is president of the First National Bank of Canton, Penn., representative in the lower house of Congress from the 14th District of Pennsylvania and a member of the House Committee on Banking and Currency.

Dispute Has Persisted For Three Years

It seems too early to tell the full tale of the struggle. It began more than three years ago, and who can say that it is approaching an end? Although the time for ultimate judgment has not yet come, an important contribution to the record has just become available. It is the bill of complaint, a document of 174 pages, which, though ex parte in origin, contains a wealth of documentary evidence and vivid detail about the famous dispute.

After enumerating countless incidents which the plaintiff believes show Mr. Williams's hostility to the bank and its president, the bill presents the following analysis of what the bank regards as the Controller's motives for his alleged actions.

"The persistent persecution of complainant," says the bill, in formal legal verbiage, "has continued for a period of over three years, and becomes more oppressive and sinister and malignant as time goes on."

The determination of the defendant to ruin and destroy the complainant as a means of destroying the said McFadden has been brought to its final height by the activities of said McFadden in Congress in the months of February and March, 1919, and by his knowledge and belief that upon the reconvening of the next Congress said McFadden will, in the performance of his public duties, continue to press the matters, to which he has already called the attention of the House of Representatives, with relation to the office of the Controller of the Currency, and it is the plain purpose and intention of the defendant to continue to use and abuse the powers of his office over the complainant for the purpose of bringing about the destruction of said McFadden, so that his usefulness and prestige as a member of Congress may come to an end before he is able to press these matters further upon the attention of the House of Representatives, and it is the intention of the defendant, in violation of the powers and duties of his office, to continue to make public confidential information acquired by the use of the great inquisitorial powers of his office, for the purpose of distracting public attention from himself and in order to make it appear that said McFadden is attacking him for motives other than his public duty as a member of Congress.

That in the pursuit of his unlawful, improper and malicious purpose, the defendant is utterly indifferent as to the fate of the complainant, its depositors and stockholders and is willing that they should lose all, provided only that the destruction of said McFadden is accomplished, and that unless the complainant receives the protection of this court there is great and imminent danger that the defendant will continue, by the abuse of the powers of his office, to injure the credit and reputation of the complainant, and will cause to the complainant, its depositors and its stockholders irreparable loss.

Asserts Controller Has Violated Law

"The complainant further avers that the aforesaid actions of the defendant, his agents and subordinates in demanding special reports and information from the complainant and its officers in excess of the powers conferred upon him by law and in violation of the express prohibitions of the statutes of the United States and in threatening to assess penalties against the complainant in the event of non-compliance with his unlawful demands, and in disclosing to the business competitors of the complainant and the personal enemies

of its officers confidential and official information with respect to the private business and affairs of the complainant, and in disclosing private, confidential and official information with respect to the business and affairs of the complainant to other banks and bankers and members of Congress and representatives of the press and the public generally, and in inciting litigation against the complainant and its officers, and in publishing and disseminating to the depositors and stockholders and to the public generally information with respect to the affairs of and business of the complainant, and to cause panic among its depositors and the withdrawal of funds on deposit with it, and in attempting to compel complainant and its officers to be witnesses against themselves in any proceedings intended to be instituted against them for any alleged offense, penalty or forfeiture, are in gross and flagrant violation of the complainant's property rights and of the rights vested in it by the Constitution and laws of the United States, in that the said actions by the defendant and his agents and subordinates subject the complainant to the deprivation of its property without due process of law, compel the complainant and its officers to be witnesses against themselves, and subject the complainant to unreasonable search and seizure, contrary to the Fourth and Fifth amendments of the Constitution of the United States, and subject the complainant and its officers to visitatorial and inquisitorial powers in violation of the specific provisions of the laws of the United States, and the complainant has no remedy or redress and is unable to prevent the continuation of the said unlawful acts except through the intervention of this court.

What Injunction Is Designed to Do

"Wherefore, complainant prays that the defendant may answer the premises according to law, answer under oath being hereby waived, and that he, his agents and subordinates and each of them, including all national bank examiners, may, by writ of injunction, be issued out of and under the seal of this honorable court, be enjoined as follows:

"1. From calling and continuing to call for, or attempting to enforce his call for, the alleged special reports mentioned in the defendant's letters of April 15, 1919; April 16, 1919, and April 21, 1919, and in the letters of Bank Examiners Roberts and Stauffer, dated April 16, 1919, respectively, and from assessing or collecting, or attempting to assess or collect, penalties against the complainant for failure to file such alleged special reports.

"2. From calling for any special report or reports from the complainant for the private and personal purposes of the defendant or for the defendant or for the purpose of harassing or persecuting the complainant in the manner alleged in the complaint, or for the purpose of obtaining information for public distribution with a view to injuring, impairing or destroying the reputation and credit of the complainant or its president for alleged offenses, or for the purpose of instituting prosecutions against complainant or its said president for alleged offenses or for the collection of penalties pursuant to the defendant's plan and purpose to destroy the reputation, credit and business of said Louis T. McFadden and the complainant as alleged in the complaint herein, and from calling for or attempting to enforce his call for any other special report or reports from the complainant when the same are not bona fide within the meaning and purposes of Sections 5211 and 5212 of the Revised Statutes of the United States, and reasonably necessary to a full and complete knowledge of the complainant's condition and expressly authorized by said sections, and from exercising any visitatorial or inquisitorial power over complainant or its officers, except as expressly authorized by law.

"3. From disclosing to the officers, directors, agents or employees of Farmers' National Bank, of Canton, Penn., any information with respect to the private business and affairs of the complainant or its officers.

"4. From disclosing the private business and affairs of the complainant or its officers to banks, bankers, members of Congress, representatives of the public press or to the public generally, for the purpose of injuring the complainant or its officers and of impairing or destroying its or their credit and reputation or for any other purpose except pursuant to law.

"5. From disclosing to the stockholders, depositors or creditors of the complainant, and to the members of the community in which the complainant is established, information with respect to the affairs and business of the complainant or its officers intended and calculated to create alarm or apprehension with respect to the credit and solvency of the complainant or any of its officers intended or calculated to cause the withdrawals of deposits from the complainant by its depositors.

"6. From inciting or attempting to induce any person or persons whatsoever to present and press claims against complainant or any of its

officers and from inciting litigation against it or them;

"7. From demanding, or attempting to enforce, the compulsory production or exposure of the private books or papers or affairs of the complainant or its officers for the purpose of attempting to subject it or them to any penalties or forfeitures or criminal prosecutions or of compelling them to be witnesses against themselves;

"8. From using the powers of the office of Controller of the Currency over the complainant or its officers for the private and personal purposes of the defendant, without reference to the proper duties and functions of the said office, and in particular for the purpose of impairing or destroying the credit and reputation of said Louis T. McFadden and the complainant, and its and his property and business in the manner set forth in the complaint;

vice from merchants, attorneys and others. The said feeling of alarm, apprehension and doubt was intensified by the newspaper publication given out by the defendant in connection with the letter of March 1, 1919 (Exhibit C), which had been widely circulated in the press throughout the entire community, as well as by the act of the defendant in continuing to circulate from time to time throughout the month of March, to stockholders, depositors and neighboring banks, the said letter dated March 1, 1919.

Run on Bank Followed Alarm

"As a result there began what was in substance and effect a run on the complainant, and the depositors began to withdraw their deposits for no reason whatsoever except their

tended to continue to foster and incite the alarm and apprehension already existing in the community and, if possible, by this means to ruin the complainant, and being unable to ascertain from the said examiners, although inquiry was repeatedly made, when they would finish their examination and leave Canton, the complainant's president was obliged, on April 7, 1919, to call upon counsel, C. La Rue Munson, of Williamsport, Penn., for legal advice and assistance.

"On that date Mr. Munson, accompanied by said McFadden, interviewed the said bank examiners, Roberts and Stauffer, and Mr. Munson inquired of the said bank examiners as to the transactions which said McFadden had had, or in which he was interested, to which they objected. Said McFadden then stated

then proceeded for a period of about ten days, and although they were fully aware of the dangerous and menacing condition resulting from their presence and activities in Canton.

"Although on April 7, 1919, said bank examiners had been unable to call the attention of said McFadden and his counsel to any irregular or objectionable transaction, although requested so to do under the most pressing circumstances, they, nevertheless, on April 11, 1919, broadly charged the complainant and said McFadden with irregular and unlawful acts and with resort to evasive methods and subterfuges in order to conceal the real character of transactions, making claims with respect to conditions and facts as to which they could not possibly

relation whatever to the present condition of the bank.

"The said Roberts, nevertheless, insisted that said information should be furnished, and it was agreed that the said information should be delivered during the following week. Complainant's counsel thereupon asked the said Roberts to specify the unsatisfactory conditions referred to in said letter and to name the irregular and unlawful acts which it was therein claimed had been committed by the complainant and by said McFadden, stating that in view of the fact that an answer was called for, it was only fair that these general charges should be made specific in order that it might be possible to make reply thereto.

"The said Roberts, who was throughout the spokesman for the said examiners, absolutely refused to make any specification whatsoever or to state any item subject to criticism or to specify any unlawful or improper or irregular act committed by the complainant or by said McFadden.

McFadden Submitted List of All Paper

"Thereupon the said Roberts submitted to said McFadden a list of all the paper held by the complainant bank on March 27 containing the name of the maker and indorser of each paper, a statement of the amount thereof and the collateral securing the same and stated that he desired said McFadden to go through this list in the presence of the examiners and to state what he knew with respect to the financial condition of the makers and the indorsers and the character of the collateral or other security. This he agreed to do and, for a period of about six hours of continuous examination, he made a full, frank and detailed statement with respect to each and every note held by the complainant bank on March 27 contained in the said list furnished by said bank examiners.

"As he proceeded with said statement said bank examiners checked the statements made by him with information which they had before them with respect to each and every of said obligations, and made notes of the statements made by him and compared the information which he gave to them with information which they already had, having before them sheets bound together, each of which contained the facts with respect to each note or loan. It was clear from the full and complete list which said examiners handed to him, as well as from their questions and the records before them, that they had gathered together the most minute, detailed and complete information with respect to each and every loan of the complainant, all of which must have been in their possession on April 7, 1919, at which time they have stated that their investigation was not completed, and upon that ground refused to give the information which was then requested.

How the Treasury Officials Worked

"The real purpose and motive of the said examination, as shown by the character of the questions propounded and the matters inquired into, was not to obtain information with respect to the condition of the bank, but to obtain evidence of improper or unlawful conduct on the part of the complainant and the said McFadden and of trapping him into admissions on the basis of which the charges made by the defendant against him might be supported and new charges made and prosecuted. The said examiners asked practically no questions with respect to the transactions of the complainant except those transactions in which said McFadden was interested directly or indirectly or with which they suspected that he was identified. Whenever such a transaction was reached upon the list which he had before him the said Roberts interrupted his statement to question him minutely with respect to the history of the transaction, the character and extent of his interest, if any, the character and financial responsibility of other parties interested therein, and the character and value of the collaterals or other securities, and the trend of his questions was such as to indicate clearly that they were directed to the establishment of some violation of law. The manner of the said Roberts during said examination was hostile and insulting, and his questions indicated the utmost suspicion and constantly insinuated wrongdoing.

"The said Roberts examined with minute particularity into the history of the Minnequa Furniture Company and its reorganization into Armenia Furniture Company mentioned in the affidavit of Louis T. McFadden, and in this connection examined from a typewritten memorandum containing several pages of previously prepared questions, showing a premeditated plan with respect to his inquiry into this subject, and in this inquiry the questions asked by him related to transactions as far back as the year 1918, having nothing whatsoever to do

with the present condition of the bank, and all of these questions were asked with the full knowledge on the part of the said Roberts that there was no paper of the said Minnequa Furniture Company in the complainant bank at the time of the inquiry, so that the entire subject was wholly irrelevant to the purposes of a proper bank examination. In the same way said Roberts examined said McFadden minutely with respect to other transactions which had been closed, with the plain purpose of establishing some irregularity, impropriety or unlawful act on his part in connection therewith."

Origin of the Dispute Described

The genesis of the row between Mr. McFadden and Mr. Williams, as it appears to the complainant, is described in detail in the bill. "The defendant," according to the complaint, "has for a period of more than two years so used and abused and exceeded the powers conferred upon him by law as to irreparably injure and in part to destroy complainant's proper and lawful business, and it is his purpose and intention wilfully and maliciously to continue to inflict irreparable injury upon it, contrary to law and in violation of his official duties and powers and obligations, and by compelling it to submit to his uncontrolled arbitrary and unlawful demands and actions and, by the publication of false and malicious statements with respect to it and its officers, to violate its rights and to impair and destroy its business credit and reputation and to bring about its destruction as a National Banking Association."

"That, beginning in the year 1914, the defendant, without just reason or cause, has conceived an ever-increasing personal enmity, hatred and malice against Louis T. McFadden, the president of the complainant, which as time has gone on has increased in intensity and finally ripened into a determination on the part of the defendant to bring about the financial and political ruin of the said McFadden for his own selfish and personal purposes.

McFadden Started In Bank as Clerk

"Louis T. McFadden is a citizen of Pennsylvania and has been in the complainant's employ as clerk, assistant cashier, cashier and president since 1894. In the spring of 1914 said McFadden, then being president of the Pennsylvania Bankers' Association, made a public address at a convention of said association, in the course of which he advocated and recommended the abolition of the office of Controller of the Currency, contending that, by reason of the recent enactment of the Federal Reserve act said office had become useless and unnecessary. Said address attracted considerable public notice and was quoted and commented upon in the financial journals and the public press of the United States, since which time the reform advocated by said McFadden has been the subject of discussion at meetings of banking associations and among the bankers of the United States and among the members of the Congress of the United States, and said McFadden has continued and is publicly known to be a leading advocate of the said reform.

"In the fall of 1914 said McFadden was elected to be a member of the House of Representatives of the United States from the Fourteenth Congressional District of Pennsylvania and entered the Congress on March 4, 1915, since which date he has continuously been a member of the House, representing said district, and a member of the Committee on Banking and Currency of the House, of which committee he is now the second member in seniority. In the course of his public duties as a member of Congress and as a member of said Committee on Banking and Currency said McFadden has on many occasions opposed recommendations for legislation customarily proposed by the defendant at each session of Congress, which legislation related to the powers of the office of the Controller of the Currency and to the banking system and currency of the United States, and on various occasions said McFadden has carried his opposition to such proposed legislation to the floor of the House.

"The advocacy by the said McFadden of the abolition of the office of Controller, although taken up by him wholly without personal reference or thought of the defendant, and although such reform has been indorsed and approved by many banking associations and bankers and experts upon such matters, and his opposition in Congress to measures advocated by the defendant constituted the beginning of the vindictive enmity and hatred of the defendant against him and the original basis of the determination of the defendant to make use of and abuse his powers over the complainant for the destruction of the said McFadden."



Hon. Louis T. McFadden.



Hon. John Skelton Williams

"9. From calling or attempting to enforce any call for any special report or reports from the complainant or any of its officers as to any of the details relative to the filing of this suit or to any privileged communications between the complainant or its officers and its or their attorneys relative hereto or for the purpose of defending the same.

"And the complainant prays that it may have such relief in the premises as the nature of the circumstances of the cause may require and to this court may seem just."

High Public Official Vs. Country Bank

The bringing of Mr. Williams, whose office places him in control of all the national banks of the United States, in court by the First National Bank of Canton almost suggests the combat between David and Goliath. Canton is a small industrial city of 2,200 population, surrounded by a farming community. As is the custom in places of such compactness, the inhabitants mingle freely together and news spreads with great rapidity.

In calling attention to these conditions the bill of complaint says:

"The extraordinary protracted visit of the bank examiners, their unusual activities at the complainant bank, their constant association and conferences with the competitors of the complainant, who are well known in the community to be inimicable to complainant and its president, and their disclosures of the confidential business of the bank to them and to others, the questions raised by them with respect to the assets of the bank and their endeavors to stir up litigation in the manner aforesaid, and their apparent malice and hostility made evident by them on all possible occasions, became noised throughout the town of Canton and the surrounding community, and these matters became the subject of comment and discussion among the residents thereof during the time that the said examination was being conducted, and the entire community became alarmed and the depositors of the complainant became intensely apprehensive with respect to the safety of their deposits.

"It became prominently rumored and reported among members of the community that the complainant was in some serious difficulty and that drastic action by the Controller of the Currency was imminent, and the advisability of the withdrawal of deposits was the subject of common discussion, with respect to which many depositors sought advice from merchants, attorneys and others. The said feeling of alarm, apprehension and doubt was intensified by the newspaper publication given out by the defendant in connection with the letter of March 1, 1919 (Exhibit C), which had been widely circulated in the press throughout the entire community, as well as by the act of the defendant in continuing to circulate from time to time throughout the month of March, to stockholders, depositors and neighboring banks, the said letter dated March 1, 1919.

Mr. McFadden and The Bank Examiners

"The situation became so acute and the danger to the complainant so imminent as a result of the continuous activities of the said bank examiners, and it became so evident that the said bank examiners in-

to the said bank examiners that if they would inform him of any paper in the bank which they regarded as objectionable he would remove it, and that he desired to remove it. Said bank examiners refused to state a single transaction or a single paper to which they had objection, claiming that they had not completed their examination, although at that time they had been continuously engaged in an examination for about ten days.

"Mr. Munson and said McFadden stated to said examiners that the reason why complainant desired immediately to rectify any matters which were the subject of criticism, was that the withdrawals at the bank were becoming very serious and that it was necessary to protect the bank and its depositors. Mr. Munson stated to said Roberts that he and his associates had seriously injured the bank, that they had caused depositors to become uneasy, that they had distributed information through the town, and that he was there as counsel to ask what paper they objected to, stating that they must have this information if they had done their duty, and that he desired to know what paper they objected to, to which said Roberts refused to reply.

Charge Rival With Soliciting Depositors

"Both Mr. Munson and said McFadden stated to said Roberts that on the previous Saturday, the president of the Farmers National Bank had stood the entire day in front of the complainant bank soliciting depositors; that his attitude and motives were well known; that said Roberts and his associates had met with Innes in their room at the Hotel Packard and discussed the assets of the complainant bank. Said Roberts did not deny any of these charges and refused to give any explanation of the connection between him and John A. Innes. Mr. Munson and said McFadden pressed said Roberts again and again for a statement of the paper at the bank to which they objected, stating that conditions were becoming most serious on account of the activities of the examiners, and that they desired to protect the interest of the depositors and stockholders of the bank and to provide any amount of cash necessary to meet the demands of depositors, and said Roberts and said Stauffer absolutely refused to give any information whatsoever, claiming that they had not yet completed their report and had not yet determined what they would object to, although the examination had

have had any personal knowledge whatsoever. It was the duty of the said bank examiners themselves to specify what paper and what transactions, if any, were found to be objectionable. Even in the said letter of April 11, 1919, they did not point out a single objectionable transaction on paper. On the contrary they called upon said McFadden, without legal right or authority, to take up and pay notes which were to be specified and described by him and not by them, entirely without reference to the character of the paper, the collateral by which it was secured or the financial responsibility of other persons or corporations primarily or secondarily liable therefor, the mere fact of his interest, direct or indirect, proximate or remote, being deemed to be a sufficient reason for requiring the immediate payment of said obligations.

"Complainant alleges and charges that the real reason for the demand contained in said letter was to cause it and its president financial embarrassment through the necessity of taking up such paper. The pretext upon which the demand was based was that said McFadden had volunteered to take up such paper, although, as it was well known and thoroughly understood, he did not volunteer to take up such paper because of the least doubt as to its value, but solely for the purpose of relieving the bank of the criticisms of the defendant and his agents, however arbitrary, in order that the bank might be freed from the dangerous situation which had been brought about by the activities of the defendant and his agents, the said bank examiners. Said letter, like many letters theretofore written, constituted a part of the scheme of the defendant to build up a record which he might subsequently rely upon and use against complainant and its president, whether reply was made there to or not.

"Upon receipt of this letter counsel of the complainant stated on its behalf that the list of paper called for would be gladly furnished. As a matter of fact, substantially all of the said paper had already been taken up and paid and said paper had been paid prior to the time when the bank examiners left Canton, so that they were well aware of that fact when said letter of April 11, 1919, was written. Complainant's counsel stated to the said examiners the fact that the said paper had been paid and that therefore their inquiry could have no